

SENATE JOINT RESOLUTION J

March 9, 1999, Introduced by Senators MC COTTER, BENNETT, SHUGARS, DINGELL, NORTH, MC MANUS, GOUGEON, GOSCHKA, HART, MILLER, YOUNG, JAYE, PETERS, SIKKEMA, DE BEAUSSAERT, LELAND, HAMMERSTROM, KOIVISTO, BYRUM, EMERSON, A. SMITH and VAN REGENMORTER and referred to the Committee on Government Operations.

A joint resolution proposing an amendment to the state constitution of 1963, by adding sections 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, and 48 to article I, to provide access to certain public records of public bodies; to permit certain fees; to prescribe the powers and duties of certain public officers and public bodies; to require certain meetings of certain public bodies to be open to the public; to require notice and the keeping of minutes of meetings; to provide for enforcement; to provide for invalidation of governmental decisions under certain circumstances; and to provide remedies and penalties.

Resolved by the Senate and House of Representatives of the state of Michigan, That the following amendment to the state constitution of 1963, to provide access to certain public records of public bodies; to permit certain fees; to prescribe the powers

1 (D) "FOIA COORDINATOR" MEANS A PERSON ACTING UNDER THE
2 FREEDOM OF INFORMATION PROVISIONS OF THIS ARTICLE AND WHO IS
3 EITHER OF THE FOLLOWING:

4 (i) AN INDIVIDUAL WHO IS A PUBLIC BODY.

5 (ii) AN INDIVIDUAL DESIGNATED BY A PUBLIC BODY IN ACCORDANCE
6 WITH SECTION 30 TO ACCEPT AND PROCESS REQUESTS FOR PUBLIC RECORDS
7 UNDER THIS ARTICLE.

8 (E) "MEETING" MEANS THE CONVENING OF A PUBLIC BODY AT WHICH
9 A QUORUM IS PRESENT FOR THE PURPOSE OF DELIBERATING TOWARD OR
10 RENDERING A DECISION ON A PUBLIC POLICY.

11 (F) "PERSON" MEANS AN INDIVIDUAL, CORPORATION, LIMITED
12 LIABILITY COMPANY, PARTNERSHIP, FIRM, ORGANIZATION, ASSOCIATION,
13 GOVERNMENTAL ENTITY, OR OTHER LEGAL ENTITY. PERSON DOES NOT
14 INCLUDE AN INDIVIDUAL SERVING A SENTENCE OF IMPRISONMENT IN A
15 STATE OR COUNTY CORRECTIONAL FACILITY IN THIS STATE OR ANY OTHER
16 STATE, OR IN A FEDERAL CORRECTIONAL FACILITY.

17 (G) "PUBLIC BODY" MEANS ANY OF THE FOLLOWING:

18 (i) A STATE OFFICER, EMPLOYEE, AGENCY, DEPARTMENT, DIVISION,
19 BUREAU, BOARD, COMMISSION, COUNCIL, AUTHORITY, OR OTHER BODY IN
20 THE EXECUTIVE BRANCH OF THE STATE GOVERNMENT, BUT DOES NOT
21 INCLUDE THE GOVERNOR OR LIEUTENANT GOVERNOR, THE EXECUTIVE OFFICE
22 OF THE GOVERNOR OR LIEUTENANT GOVERNOR, OR EMPLOYEES THEREOF.

23 (ii) AN AGENCY, BOARD, COMMISSION, OR COUNCIL IN THE LEGIS-
24 LATIVE BRANCH OF THE STATE GOVERNMENT.

25 (iii) A COUNTY, CITY, TOWNSHIP, VILLAGE, INTERCOUNTY, INTER-
26 CITY, OR REGIONAL GOVERNING BODY, COUNCIL, SCHOOL DISTRICT,

1 SPECIAL DISTRICT, OR MUNICIPAL CORPORATION, OR A BOARD,
2 DEPARTMENT, COMMISSION, COUNCIL, OR AGENCY THEREOF.

3 (iv) ANY OTHER BODY WHICH IS CREATED BY STATE OR LOCAL
4 AUTHORITY OR WHICH IS PRIMARILY FUNDED BY OR THROUGH STATE OR
5 LOCAL AUTHORITY.

6 (v) THE JUDICIARY, INCLUDING THE OFFICE OF THE COUNTY CLERK
7 AND EMPLOYEES THEREOF WHEN ACTING IN THE CAPACITY OF CLERK TO THE
8 CIRCUIT COURT, IS NOT INCLUDED IN THE DEFINITION OF PUBLIC BODY.

9 (H) "PUBLIC RECORD" MEANS A WRITING PREPARED, OWNED, USED,
10 IN THE POSSESSION OF, OR RETAINED BY A PUBLIC BODY IN THE PER-
11 FORMANCE OF AN OFFICIAL FUNCTION, FROM THE TIME IT IS CREATED.
12 PUBLIC RECORD DOES NOT INCLUDE COMPUTER SOFTWARE. THIS ACT SEPA-
13 RATES PUBLIC RECORDS INTO THE FOLLOWING 2 CLASSES:

14 (i) THOSE THAT ARE EXEMPT FROM DISCLOSURE UNDER SECTION 33.

15 (ii) ALL PUBLIC RECORDS THAT ARE NOT EXEMPT FROM DISCLOSURE
16 UNDER SECTION 33 AND WHICH ARE SUBJECT TO DISCLOSURE UNDER THIS
17 ARTICLE.

18 (I) "SOFTWARE" MEANS A SET OF STATEMENTS OR INSTRUCTIONS
19 THAT WHEN INCORPORATED IN A MACHINE USABLE MEDIUM IS CAPABLE OF
20 CAUSING A MACHINE OR DEVICE HAVING INFORMATION PROCESSING CAPA-
21 BILITIES TO INDICATE, PERFORM, OR ACHIEVE A PARTICULAR FUNCTION,
22 TASK, OR RESULT. SOFTWARE DOES NOT INCLUDE COMPUTER-STORED
23 INFORMATION OR DATA, OR A FIELD NAME IF DISCLOSURE OF THAT FIELD
24 NAME DOES NOT VIOLATE A SOFTWARE LICENSE.

25 (J) "UNUSUAL CIRCUMSTANCES" MEANS ANY 1 OR A COMBINATION OF
26 THE FOLLOWING, BUT ONLY TO THE EXTENT NECESSARY FOR THE PROPER
27 PROCESSING OF A REQUEST:

1 (i) THE NEED TO SEARCH FOR, COLLECT, OR APPROPRIATELY
2 EXAMINE OR REVIEW A VOLUMINOUS AMOUNT OF SEPARATE AND DISTINCT
3 PUBLIC RECORDS PURSUANT TO A SINGLE REQUEST.

4 (ii) THE NEED TO COLLECT THE REQUESTED PUBLIC RECORDS FROM
5 NUMEROUS FIELD OFFICES, FACILITIES, OR OTHER ESTABLISHMENTS WHICH
6 ARE LOCATED APART FROM THE PARTICULAR OFFICE RECEIVING OR PRO-
7 CESSING THE REQUEST.

8 (k) "WRITING" MEANS HANDWRITING, TYPEWRITING, PRINTING, PHO-
9 TOSTATING, PHOTOGRAPHING, PHOTOCOPYING, AND EVERY OTHER MEANS OF
10 RECORDING, AND INCLUDES LETTERS, WORDS, PICTURES, SOUNDS, OR SYM-
11 BOLS, OR COMBINATIONS THEREOF, AND PAPERS, MAPS, MAGNETIC OR
12 PAPER TAPES, PHOTOGRAPHIC FILMS OR PRINTS, MICROFILM, MICROFICHE,
13 MAGNETIC OR PUNCHED CARDS, DISCS, DRUMS, OR OTHER MEANS OF
14 RECORDING OR RETAINING MEANINGFUL CONTENT.

15 (l) "WRITTEN REQUEST" MEANS A WRITING THAT ASKS FOR INFORMA-
16 TION, AND INCLUDES A WRITING TRANSMITTED BY FACSIMILE, ELECTRONIC
17 MAIL, OR OTHER ELECTRONIC MEANS.

18 SEC. 27. (1) EXCEPT AS EXPRESSLY PROVIDED IN SECTION 33,
19 UPON PROVIDING A PUBLIC BODY'S FOIA COORDINATOR WITH A WRITTEN
20 REQUEST THAT DESCRIBES A PUBLIC RECORD SUFFICIENTLY TO ENABLE THE
21 PUBLIC BODY TO FIND THE PUBLIC RECORD, A PERSON HAS A RIGHT TO
22 INSPECT, COPY, OR RECEIVE COPIES OF THE REQUESTED PUBLIC RECORD
23 OF THE PUBLIC BODY. A PERSON HAS A RIGHT TO SUBSCRIBE TO FUTURE
24 ISSUANCES OF PUBLIC RECORDS THAT ARE CREATED, ISSUED, OR DISSEMI-
25 NATED ON A REGULAR BASIS. A SUBSCRIPTION SHALL BE VALID FOR UP
26 TO 6 MONTHS, AT THE REQUEST OF THE SUBSCRIBER, AND SHALL BE
27 RENEWABLE. AN EMPLOYEE OF A PUBLIC BODY WHO RECEIVES A REQUEST

1 FOR A PUBLIC RECORD SHALL PROMPTLY FORWARD THAT REQUEST TO THE
2 FOIA COORDINATOR.

3 (2) A FOIA COORDINATOR SHALL KEEP A COPY OF ALL WRITTEN
4 REQUESTS FOR PUBLIC RECORDS ON FILE FOR NO LESS THAN 1 YEAR.

5 (3) A PUBLIC BODY SHALL FURNISH A REQUESTING PERSON A REA-
6 SONABLE OPPORTUNITY FOR INSPECTION AND EXAMINATION OF ITS PUBLIC
7 RECORDS, AND SHALL FURNISH REASONABLE FACILITIES FOR MAKING MEMO-
8 RANDA OR ABSTRACTS FROM ITS PUBLIC RECORDS DURING THE USUAL BUSI-
9 NESS HOURS. A PUBLIC BODY MAY MAKE REASONABLE RULES NECESSARY TO
10 PROTECT ITS PUBLIC RECORDS AND TO PREVENT EXCESSIVE AND UNREASON-
11 ABLE INTERFERENCE WITH THE DISCHARGE OF ITS FUNCTIONS. A PUBLIC
12 BODY SHALL PROTECT PUBLIC RECORDS FROM LOSS, UNAUTHORIZED ALTER-
13 ATION, MUTILATION, OR DESTRUCTION.

14 (4) THIS ARTICLE DOES NOT REQUIRE A PUBLIC BODY TO MAKE A
15 COMPILATION, SUMMARY, OR REPORT OF INFORMATION, EXCEPT AS
16 REQUIRED IN SECTION 32.

17 (5) THIS ARTICLE DOES NOT REQUIRE A PUBLIC BODY TO CREATE A
18 NEW PUBLIC RECORD, EXCEPT AS REQUIRED IN SECTION 32, AND TO THE
19 EXTENT REQUIRED BY THIS ARTICLE FOR THE FURNISHING OF COPIES, OR
20 EDITED COPIES PURSUANT TO SECTION 35(1), OF AN ALREADY EXISTING
21 PUBLIC RECORD.

22 (6) THE CUSTODIAN OF A PUBLIC RECORD SHALL, UPON WRITTEN
23 REQUEST, FURNISH A REQUESTING PERSON A CERTIFIED COPY OF A PUBLIC
24 RECORD.

25 SEC. 28. (1) A PUBLIC BODY MAY CHARGE A FEE FOR A PUBLIC
26 RECORD SEARCH, THE NECESSARY COPYING OF A PUBLIC RECORD FOR
27 INSPECTION, OR FOR PROVIDING A COPY OF A PUBLIC RECORD. SUBJECT

1 TO SUBSECTIONS (3) AND (4), THE FEE SHALL BE LIMITED TO ACTUAL
2 MAILING COSTS, AND TO THE ACTUAL INCREMENTAL COST OF DUPLICATION
3 OR PUBLICATION INCLUDING LABOR, THE COST OF SEARCH, EXAMINATION,
4 REVIEW, AND THE DELETION AND SEPARATION OF EXEMPT FROM NONEXEMPT
5 INFORMATION AS PROVIDED IN SECTION 35. A SEARCH FOR A PUBLIC
6 RECORD MAY BE CONDUCTED OR COPIES OF PUBLIC RECORDS MAY BE FUR-
7 NISHED WITHOUT CHARGE OR AT A REDUCED CHARGE IF THE PUBLIC BODY
8 DETERMINES THAT A WAIVER OR REDUCTION OF THE FEE IS IN THE PUBLIC
9 INTEREST BECAUSE SEARCHING FOR OR FURNISHING COPIES OF THE PUBLIC
10 RECORD CAN BE CONSIDERED AS PRIMARILY BENEFITING THE GENERAL
11 PUBLIC. A PUBLIC RECORD SEARCH SHALL BE MADE AND A COPY OF A
12 PUBLIC RECORD SHALL BE FURNISHED WITHOUT CHARGE FOR THE FIRST
13 \$20.00 OF THE FEE FOR EACH REQUEST TO AN INDIVIDUAL WHO IS ENTI-
14 TLED TO INFORMATION UNDER THIS ARTICLE AND WHO SUBMITS AN AFFIDA-
15 VIT STATING THAT THE INDIVIDUAL IS THEN RECEIVING PUBLIC ASSIST-
16 ANCE OR, IF NOT RECEIVING PUBLIC ASSISTANCE, STATING FACTS SHOW-
17 ING INABILITY TO PAY THE COST BECAUSE OF INDIGENCY.

18 (2) A PUBLIC BODY MAY REQUIRE AT THE TIME A REQUEST IS MADE
19 A GOOD FAITH DEPOSIT FROM THE PERSON REQUESTING THE PUBLIC RECORD
20 OR SERIES OF PUBLIC RECORDS, IF THE FEE AUTHORIZED UNDER THIS
21 SECTION EXCEEDS \$50.00. THE DEPOSIT SHALL NOT EXCEED 1/2 OF THE
22 TOTAL FEE.

23 (3) IN CALCULATING THE COST OF LABOR INCURRED IN DUPLICATION
24 AND MAILING AND THE COST OF EXAMINATION, REVIEW, SEPARATION, AND
25 DELETION UNDER SUBSECTION (1), A PUBLIC BODY MAY NOT CHARGE MORE
26 THAN THE HOURLY WAGE OF THE LOWEST PAID PUBLIC BODY EMPLOYEE
27 CAPABLE OF RETRIEVING THE INFORMATION NECESSARY TO COMPLY WITH A

1 REQUEST UNDER THIS ACT. FEES SHALL BE UNIFORM AND NOT DEPENDENT
2 UPON THE IDENTITY OF THE REQUESTING PERSON. A PUBLIC BODY SHALL
3 UTILIZE THE MOST ECONOMICAL MEANS AVAILABLE FOR MAKING COPIES OF
4 PUBLIC RECORDS. A FEE SHALL NOT BE CHARGED FOR THE COST OF
5 SEARCH, EXAMINATION, REVIEW, AND THE DELETION AND SEPARATION OF
6 EXEMPT FROM NONEXEMPT INFORMATION AS PROVIDED IN SECTION 35
7 UNLESS FAILURE TO CHARGE A FEE WOULD RESULT IN UNREASONABLY HIGH
8 COSTS TO THE PUBLIC BODY BECAUSE OF THE NATURE OF THE REQUEST IN
9 THE PARTICULAR INSTANCE, AND THE PUBLIC BODY SPECIFICALLY IDENTI-
10 FIES THE NATURE OF THESE UNREASONABLY HIGH COSTS. A PUBLIC BODY
11 SHALL ESTABLISH AND PUBLISH PROCEDURES AND GUIDELINES TO IMPLE-
12 MENT THIS SUBSECTION.

13 (4) THIS SECTION DOES NOT APPLY TO PUBLIC RECORDS PREPARED
14 UNDER AN ACT OR STATUTE SPECIFICALLY AUTHORIZING THE SALE OF
15 THOSE PUBLIC RECORDS TO THE PUBLIC, OR IF THE AMOUNT OF THE FEE
16 FOR PROVIDING A COPY OF THE PUBLIC RECORD IS OTHERWISE SPECIFI-
17 CALLY PROVIDED BY AN ACT OR STATUTE.

18 SEC. 29. (1) EXCEPT AS PROVIDED IN SECTION 27, A PERSON
19 DESIRING TO INSPECT OR RECEIVE A COPY OF A PUBLIC RECORD SHALL
20 MAKE A WRITTEN REQUEST FOR THE PUBLIC RECORD TO THE FOIA COORDI-
21 NATOR OF A PUBLIC BODY. A WRITTEN REQUEST MADE BY FACSIMILE,
22 ELECTRONIC MAIL, OR OTHER ELECTRONIC TRANSMISSION IS NOT RECEIVED
23 BY A PUBLIC BODY'S FOIA COORDINATOR UNTIL 1 BUSINESS DAY AFTER
24 THE ELECTRONIC TRANSMISSION IS MADE.

25 (2) UNLESS OTHERWISE AGREED TO IN WRITING BY THE PERSON
26 MAKING THE REQUEST, A PUBLIC BODY SHALL RESPOND TO A REQUEST FOR

1 A PUBLIC RECORD WITHIN 5 BUSINESS DAYS AFTER THE PUBLIC BODY
2 RECEIVES THE REQUEST BY DOING 1 OF THE FOLLOWING:

3 (A) GRANTING THE REQUEST.

4 (B) ISSUING A WRITTEN NOTICE TO THE REQUESTING PERSON DENY-
5 ING THE REQUEST.

6 (C) GRANTING THE REQUEST IN PART AND ISSUING A WRITTEN
7 NOTICE TO THE REQUESTING PERSON DENYING THE REQUEST IN PART.

8 (D) ISSUING A NOTICE EXTENDING FOR NOT MORE THAN 10 BUSINESS
9 DAYS THE PERIOD DURING WHICH THE PUBLIC BODY SHALL RESPOND TO THE
10 REQUEST. A PUBLIC BODY SHALL NOT ISSUE MORE THAN 1 NOTICE OF
11 EXTENSION FOR A PARTICULAR REQUEST.

12 (3) FAILURE TO RESPOND TO A REQUEST PURSUANT TO SUBSECTION
13 (2) CONSTITUTES A PUBLIC BODY'S FINAL DETERMINATION TO DENY THE
14 REQUEST. IN A CIRCUIT COURT ACTION TO COMPEL A PUBLIC BODY'S
15 DISCLOSURE OF A PUBLIC RECORD UNDER SECTION 31, THE CIRCUIT COURT
16 SHALL ASSESS DAMAGES AGAINST THE PUBLIC BODY PURSUANT TO
17 SECTION 31(7) IF THE CIRCUIT COURT HAS DONE BOTH OF THE
18 FOLLOWING:

19 (A) DETERMINED THAT THE PUBLIC BODY HAS NOT COMPLIED WITH
20 SUBSECTION (2).

21 (B) ORDERED THE PUBLIC BODY TO DISCLOSE OR PROVIDE COPIES OF
22 ALL OR A PORTION OF THE PUBLIC RECORD.

23 (4) A WRITTEN NOTICE DENYING A REQUEST FOR A PUBLIC RECORD
24 IN WHOLE OR IN PART IS A PUBLIC BODY'S FINAL DETERMINATION TO
25 DENY THE REQUEST OR PORTION OF THAT REQUEST. THE WRITTEN NOTICE
26 SHALL CONTAIN:

1 (A) AN EXPLANATION OF THE BASIS UNDER THIS ACT OR OTHER
2 STATUTE FOR THE DETERMINATION THAT THE PUBLIC RECORD, OR PORTION
3 OF THAT PUBLIC RECORD, IS EXEMPT FROM DISCLOSURE, IF THAT IS THE
4 REASON FOR DENYING ALL OR A PORTION OF THE REQUEST.

5 (B) A CERTIFICATE THAT THE PUBLIC RECORD DOES NOT EXIST
6 UNDER THE NAME GIVEN BY THE REQUESTER OR BY ANOTHER NAME REASON-
7 ABLY KNOWN TO THE PUBLIC BODY, IF THAT IS THE REASON FOR DENYING
8 THE REQUEST OR A PORTION OF THE REQUEST.

9 (C) A DESCRIPTION OF A PUBLIC RECORD OR INFORMATION ON A
10 PUBLIC RECORD THAT IS SEPARATED OR DELETED PURSUANT TO SECTION
11 35, IF A SEPARATION OR DELETION IS MADE.

12 (D) A FULL EXPLANATION OF THE REQUESTING PERSON'S RIGHT TO
13 DO EITHER OF THE FOLLOWING:

14 (i) SUBMIT TO THE HEAD OF THE PUBLIC BODY A WRITTEN APPEAL
15 THAT SPECIFICALLY STATES THE WORD "APPEAL" AND IDENTIFIES THE
16 REASON OR REASONS FOR REVERSAL OF THE DISCLOSURE DENIAL.

17 (ii) SEEK JUDICIAL REVIEW OF THE DENIAL UNDER SECTION 31.

18 (E) NOTICE OF THE RIGHT TO RECEIVE ATTORNEYS' FEES AND DAM-
19 AGES AS PROVIDED IN SECTION 31 IF, AFTER JUDICIAL REVIEW, THE
20 CIRCUIT COURT DETERMINES THAT THE PUBLIC BODY HAS NOT COMPLIED
21 WITH THIS SECTION AND ORDERS DISCLOSURE OF ALL OR A PORTION OF A
22 PUBLIC RECORD.

23 (5) THE INDIVIDUAL DESIGNATED IN SECTION 30 AS RESPONSIBLE
24 FOR THE DENIAL OF THE REQUEST SHALL SIGN THE WRITTEN NOTICE OF
25 DENIAL.

26 (6) IF A PUBLIC BODY ISSUES A NOTICE EXTENDING THE PERIOD
27 FOR A RESPONSE TO THE REQUEST, THE NOTICE SHALL SPECIFY THE

1 REASONS FOR THE EXTENSION AND THE DATE BY WHICH THE PUBLIC BODY
2 WILL DO 1 OF THE FOLLOWING:

3 (A) GRANT THE REQUEST.

4 (B) ISSUE A WRITTEN NOTICE TO THE REQUESTING PERSON DENYING
5 THE REQUEST.

6 (C) GRANT THE REQUEST IN PART AND ISSUE A WRITTEN NOTICE TO
7 THE REQUESTING PERSON DENYING THE REQUEST IN PART.

8 (7) IF A PUBLIC BODY MAKES A FINAL DETERMINATION TO DENY IN
9 WHOLE OR IN PART A REQUEST TO INSPECT OR RECEIVE A COPY OF A
10 PUBLIC RECORD OR PORTION OF THAT PUBLIC RECORD, THE REQUESTING
11 PERSON MAY DO EITHER OF THE FOLLOWING:

12 (A) APPEAL THE DENIAL TO THE HEAD OF THE PUBLIC BODY PURSU-
13 ANT TO SECTION 31.

14 (B) COMMENCE AN ACTION IN CIRCUIT COURT, PURSUANT TO SECTION
15 31.

16 SEC. 30. (1) A PUBLIC BODY THAT IS A CITY, VILLAGE, TOWN-
17 SHIP, COUNTY, OR STATE DEPARTMENT, OR UNDER THE CONTROL OF A
18 CITY, VILLAGE, TOWNSHIP, COUNTY, OR STATE DEPARTMENT, SHALL DES-
19 IGNATE AN INDIVIDUAL AS THE PUBLIC BODY'S FOIA COORDINATOR. THE
20 FOIA COORDINATOR SHALL BE RESPONSIBLE FOR ACCEPTING AND PROCESS-
21 ING REQUESTS FOR THE PUBLIC BODY'S PUBLIC RECORDS UNDER THIS
22 ARTICLE AND SHALL BE RESPONSIBLE FOR APPROVING A DENIAL UNDER
23 SECTION 29(4) AND (5). IN A COUNTY NOT HAVING AN EXECUTIVE FORM
24 OF GOVERNMENT, THE CHAIRPERSON OF THE COUNTY BOARD OF COMMISSION-
25 ERS IS DESIGNATED THE FOIA COORDINATOR FOR THAT COUNTY.

1 (2) FOR ALL OTHER PUBLIC BODIES, THE CHIEF ADMINISTRATIVE
2 OFFICER OF THE RESPECTIVE PUBLIC BODY IS DESIGNATED THE PUBLIC
3 BODY'S FOIA COORDINATOR.

4 (3) AN FOIA COORDINATOR MAY DESIGNATE ANOTHER INDIVIDUAL TO
5 ACT ON HIS OR HER BEHALF IN ACCEPTING AND PROCESSING REQUESTS FOR
6 THE PUBLIC BODY'S PUBLIC RECORDS, AND IN APPROVING A DENIAL UNDER
7 SECTION 29(4) AND (5).

8 SEC. 31. (1) IF A PUBLIC BODY MAKES A FINAL DETERMINATION
9 TO DENY ALL OR A PORTION OF A REQUEST, THE REQUESTING PERSON MAY
10 DO 1 OF THE FOLLOWING AT HIS OR HER OPTION:

11 (A) SUBMIT TO THE HEAD OF THE PUBLIC BODY A WRITTEN APPEAL
12 THAT SPECIFICALLY STATES THE WORD "APPEAL" AND IDENTIFIES THE
13 REASON OR REASONS FOR REVERSAL OF THE DENIAL.

14 (B) COMMENCE AN ACTION IN THE CIRCUIT COURT TO COMPEL THE
15 PUBLIC BODY'S DISCLOSURE OF THE PUBLIC RECORDS WITHIN 180 DAYS
16 AFTER A PUBLIC BODY'S FINAL DETERMINATION TO DENY A REQUEST.

17 (2) WITHIN 10 DAYS AFTER RECEIVING A WRITTEN APPEAL PURSUANT
18 TO SUBSECTION (1)(A), THE HEAD OF A PUBLIC BODY SHALL DO 1 OF THE
19 FOLLOWING:

20 (A) REVERSE THE DISCLOSURE DENIAL.

21 (B) ISSUE A WRITTEN NOTICE TO THE REQUESTING PERSON UPHOLD-
22 ING THE DISCLOSURE DENIAL.

23 (C) REVERSE THE DISCLOSURE DENIAL IN PART AND ISSUE A WRIT-
24 TEN NOTICE TO THE REQUESTING PERSON UPHOLDING THE DISCLOSURE
25 DENIAL IN PART.

26 (D) UNDER UNUSUAL CIRCUMSTANCES, ISSUE A NOTICE EXTENDING
27 FOR NOT MORE THAN 10 BUSINESS DAYS THE PERIOD DURING WHICH THE

1 HEAD OF THE PUBLIC BODY SHALL RESPOND TO THE WRITTEN APPEAL. THE
2 HEAD OF A PUBLIC BODY SHALL NOT ISSUE MORE THAN 1 NOTICE OF
3 EXTENSION FOR A PARTICULAR WRITTEN APPEAL.

4 (3) A BOARD OR COMMISSION THAT IS THE HEAD OF A PUBLIC BODY
5 IS NOT CONSIDERED TO HAVE RECEIVED A WRITTEN APPEAL UNDER SUBSEC-
6 TION (2) UNTIL THE FIRST REGULARLY SCHEDULED MEETING OF THAT
7 BOARD OR COMMISSION FOLLOWING SUBMISSION OF THE WRITTEN APPEAL
8 UNDER SUBSECTION (1)(A). IF THE HEAD OF THE PUBLIC BODY FAILS TO
9 RESPOND TO A WRITTEN APPEAL PURSUANT TO SUBSECTION (2), OR IF THE
10 HEAD OF THE PUBLIC BODY UPHOLDS ALL OR A PORTION OF THE DISCLO-
11 SURE DENIAL THAT IS THE SUBJECT OF THE WRITTEN APPEAL, THE
12 REQUESTING PERSON MAY SEEK JUDICIAL REVIEW OF THE NONDISCLOSURE
13 BY COMMENCING AN ACTION IN CIRCUIT COURT UNDER
14 SUBSECTION (1)(B).

15 (4) IN AN ACTION COMMENCED UNDER SUBSECTION (1)(B), A COURT
16 THAT DETERMINES A PUBLIC RECORD IS NOT EXEMPT FROM DISCLOSURE
17 SHALL ORDER THE PUBLIC BODY TO CEASE WITHHOLDING OR TO PRODUCE
18 ALL OR A PORTION OF A PUBLIC RECORD WRONGFULLY WITHHELD, REGARD-
19 LESS OF THE LOCATION OF THE PUBLIC RECORD. THE CIRCUIT COURT FOR
20 THE COUNTY IN WHICH THE COMPLAINANT RESIDES OR HAS HIS OR HER
21 PRINCIPAL PLACE OF BUSINESS, OR THE CIRCUIT COURT FOR THE COUNTY
22 IN WHICH THE PUBLIC RECORD OR AN OFFICE OF THE PUBLIC BODY IS
23 LOCATED HAS VENUE OVER THE ACTION. THE COURT SHALL DETERMINE THE
24 MATTER DE NOVO AND THE BURDEN IS ON THE PUBLIC BODY TO SUSTAIN
25 ITS DENIAL. THE COURT, ON ITS OWN MOTION, MAY VIEW THE PUBLIC
26 RECORD IN CONTROVERSY IN PRIVATE BEFORE REACHING A DECISION.

1 FAILURE TO COMPLY WITH AN ORDER OF THE COURT MAY BE PUNISHED AS
2 CONTEMPT OF COURT.

3 (5) AN ACTION COMMENCED UNDER THIS SECTION AND AN APPEAL
4 FROM AN ACTION COMMENCED UNDER THIS SECTION SHALL BE ASSIGNED FOR
5 HEARING AND TRIAL OR FOR ARGUMENT AT THE EARLIEST PRACTICABLE
6 DATE AND EXPEDITED IN EVERY WAY.

7 (6) IF A PERSON ASSERTING THE RIGHT TO INSPECT, COPY, OR
8 RECEIVE A COPY OF ALL OR A PORTION OF A PUBLIC RECORD PREVAILS IN
9 AN ACTION COMMENCED UNDER THIS SECTION, THE COURT SHALL AWARD
10 REASONABLE ATTORNEYS' FEES, COSTS, AND DISBURSEMENTS. IF THE
11 PERSON OR PUBLIC BODY PREVAILS IN PART, THE COURT MAY, IN ITS
12 DISCRETION, AWARD ALL OR AN APPROPRIATE PORTION OF REASONABLE
13 ATTORNEYS' FEES, COSTS, AND DISBURSEMENTS. THE AWARD SHALL BE
14 ASSESSED AGAINST THE PUBLIC BODY LIABLE FOR DAMAGES UNDER SUBSEC-
15 TION (7).

16 (7) IF THE CIRCUIT COURT DETERMINES IN AN ACTION COMMENCED
17 UNDER THIS SECTION THAT THE PUBLIC BODY HAS ARBITRARILY AND
18 CAPRICIOUSLY VIOLATED THIS ARTICLE BY REFUSAL OR DELAY IN DIS-
19 CLOSING OR PROVIDING COPIES OF A PUBLIC RECORD, THE COURT SHALL
20 AWARD, IN ADDITION TO ANY ACTUAL OR COMPENSATORY DAMAGES, PUNI-
21 TIVE DAMAGES IN THE AMOUNT OF \$500.00 TO THE PERSON SEEKING THE
22 RIGHT TO INSPECT OR RECEIVE A COPY OF A PUBLIC RECORD. THE DAM-
23 AGES SHALL NOT BE ASSESSED AGAINST AN INDIVIDUAL, BUT SHALL BE
24 ASSESSED AGAINST THE NEXT SUCCEEDING PUBLIC BODY THAT IS NOT AN
25 INDIVIDUAL AND THAT KEPT OR MAINTAINED THE PUBLIC RECORD AS PART
26 OF ITS PUBLIC FUNCTION.

1 SEC. 32. (1) A STATE AGENCY SHALL PUBLISH AND MAKE
2 AVAILABLE TO THE PUBLIC ALL OF THE FOLLOWING:

3 (A) FINAL ORDERS OR DECISIONS IN CONTESTED CASES AND THE
4 RECORDS ON WHICH THEY WERE MADE.

5 (B) PROMULGATED RULES.

6 (C) OTHER WRITTEN STATEMENTS WHICH IMPLEMENT OR INTERPRET
7 LAWS, RULES, OR POLICY, INCLUDING BUT NOT LIMITED TO GUIDELINES,
8 MANUALS, AND FORMS WITH INSTRUCTIONS, ADOPTED OR USED BY THE
9 AGENCY IN THE DISCHARGE OF ITS FUNCTIONS.

10 (2) PUBLICATIONS MAY BE IN PAMPHLET, LOOSE-LEAF, OR OTHER
11 APPROPRIATE FORM IN PRINTED, MIMEOGRAPHED, OR OTHER WRITTEN
12 MATTER.

13 (3) EXCEPT TO THE EXTENT THAT A PERSON HAS ACTUAL AND TIMELY
14 NOTICE OF THE TERMS THEREOF, A PERSON SHALL NOT IN ANY MANNER BE
15 REQUIRED TO RESORT TO, OR BE ADVERSELY AFFECTED BY, A MATTER
16 REQUIRED TO BE PUBLISHED AND MADE AVAILABLE, IF THE MATTER IS NOT
17 SO PUBLISHED AND MADE AVAILABLE.

18 (4) THIS SECTION DOES NOT APPLY TO PUBLIC RECORDS WHICH ARE
19 EXEMPT FROM DISCLOSURE UNDER SECTION 33.

20 (5) A PERSON MAY COMMENCE AN ACTION IN THE CIRCUIT COURT TO
21 COMPEL A STATE AGENCY TO COMPLY WITH THIS SECTION. IF THE COURT
22 DETERMINES THAT THE STATE AGENCY HAS FAILED TO COMPLY, THE COURT
23 SHALL ORDER THE STATE AGENCY TO COMPLY AND SHALL AWARD REASONABLE
24 ATTORNEYS' FEES, COSTS, AND DISBURSEMENTS TO THE PERSON COMMENC-
25 ING THE ACTION. THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE
26 STATE AGENCY IS LOCATED SHALL HAVE JURISDICTION TO ISSUE THE
27 ORDER.

1 (6) AS USED IN THIS SECTION, "STATE AGENCY", "CONTESTED
2 CASE", AND "RULES" HAVE THE SAME MEANINGS AS ASCRIBED TO THOSE
3 TERMS IN THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306,
4 MCL 24.201 TO 24.328.

5 SEC. 33. (1) A PUBLIC BODY MAY EXEMPT FROM DISCLOSURE AS A
6 PUBLIC RECORD UNDER THIS ARTICLE:

7 (A) INFORMATION OF A PERSONAL NATURE WHERE THE PUBLIC DIS-
8 CLOSURE OF THE INFORMATION WOULD CONSTITUTE A CLEARLY UNWARRANTED
9 INVASION OF AN INDIVIDUAL'S PRIVACY.

10 (B) INVESTIGATING RECORDS COMPILED FOR LAW ENFORCEMENT PUR-
11 POSES, BUT ONLY TO THE EXTENT THAT DISCLOSURE AS A PUBLIC RECORD
12 WOULD DO ANY OF THE FOLLOWING:

13 (i) INTERFERE WITH LAW ENFORCEMENT PROCEEDINGS.

14 (ii) DEPRIVE A PERSON OF THE RIGHT TO A FAIR TRIAL OR IMPAR-
15 TIAL ADMINISTRATIVE ADJUDICATION.

16 (iii) CONSTITUTE AN UNWARRANTED INVASION OF PERSONAL
17 PRIVACY.

18 (iv) DISCLOSE THE IDENTITY OF A CONFIDENTIAL SOURCE, OR IF
19 THE RECORD IS COMPILED BY A LAW ENFORCEMENT AGENCY IN THE COURSE
20 OF A CRIMINAL INVESTIGATION, DISCLOSE CONFIDENTIAL INFORMATION
21 FURNISHED ONLY BY A CONFIDENTIAL SOURCE.

22 (v) DISCLOSE LAW ENFORCEMENT INVESTIGATIVE TECHNIQUES OR
23 PROCEDURES.

24 (vi) ENDANGER THE LIFE OR PHYSICAL SAFETY OF LAW ENFORCEMENT
25 PERSONNEL.

26 (C) A PUBLIC RECORD THAT IF DISCLOSED WOULD PREJUDICE A
27 PUBLIC BODY'S ABILITY TO MAINTAIN THE PHYSICAL SECURITY OF

1 CUSTODIAL OR PENAL INSTITUTIONS OCCUPIED BY PERSONS ARRESTED OR
2 CONVICTED OF A CRIME OR ADMITTED BECAUSE OF A MENTAL DISABILITY,
3 UNLESS THE PUBLIC INTEREST IN DISCLOSURE UNDER THIS ACT OUTWEIGHS
4 THE PUBLIC INTEREST IN NONDISCLOSURE.

5 (D) RECORDS OR INFORMATION SPECIFICALLY DESCRIBED AND
6 EXEMPTED FROM DISCLOSURE BY STATUTE.

7 (E) INFORMATION THE RELEASE OF WHICH WOULD PREVENT THE
8 PUBLIC BODY FROM COMPLYING WITH SECTION 444 OF SUBPART 4 OF PART
9 C OF THE GENERAL EDUCATION PROVISIONS ACT, TITLE IV OF PUBLIC LAW
10 90-247, 20 U.S.C. 1232G, COMMONLY REFERRED TO AS THE FAMILY EDU-
11 CATIONAL RIGHTS AND PRIVACY ACT OF 1974.

12 (F) A PUBLIC RECORD OR INFORMATION DESCRIBED IN THIS SECTION
13 THAT IS FURNISHED BY THE PUBLIC BODY ORIGINALLY COMPILING, PRE-
14 PARING, OR RECEIVING THE RECORD OR INFORMATION TO A PUBLIC OFFI-
15 CER OR PUBLIC BODY IN CONNECTION WITH THE PERFORMANCE OF THE
16 DUTIES OF THAT PUBLIC OFFICER OR PUBLIC BODY, IF THE CONSIDERA-
17 TIONS ORIGINALLY GIVING RISE TO THE EXEMPT NATURE OF THE PUBLIC
18 RECORD REMAIN APPLICABLE.

19 (G) TRADE SECRETS OR COMMERCIAL OR FINANCIAL INFORMATION
20 VOLUNTARILY PROVIDED TO AN AGENCY FOR USE IN DEVELOPING GOVERN-
21 MENTAL POLICY IF:

22 (i) THE INFORMATION IS SUBMITTED UPON A PROMISE OF CONFIDEN-
23 TIALITY BY THE PUBLIC BODY.

24 (ii) THE PROMISE OF CONFIDENTIALITY IS AUTHORIZED BY THE
25 CHIEF ADMINISTRATIVE OFFICER OF THE PUBLIC BODY OR BY AN ELECTED
26 OFFICIAL AT THE TIME THE PROMISE IS MADE.

1 (iii) A DESCRIPTION OF THE INFORMATION IS RECORDED BY THE
2 PUBLIC BODY WITHIN A REASONABLE TIME AFTER IT HAS BEEN SUBMITTED,
3 MAINTAINED IN A CENTRAL PLACE WITHIN THE PUBLIC BODY, AND MADE
4 AVAILABLE TO A PERSON UPON REQUEST. THIS SUBDIVISION DOES NOT
5 APPLY TO INFORMATION SUBMITTED AS REQUIRED BY LAW OR AS A CONDI-
6 TION OF RECEIVING A GOVERNMENTAL CONTRACT, LICENSE, OR OTHER
7 BENEFIT.

8 (H) INFORMATION OR RECORDS SUBJECT TO THE ATTORNEY-CLIENT
9 PRIVILEGE.

10 (I) INFORMATION OR RECORDS SUBJECT TO THE PHYSICIAN-PATIENT
11 PRIVILEGE, THE PSYCHOLOGIST-PATIENT PRIVILEGE, THE MINISTER,
12 PRIEST, OR CHRISTIAN SCIENCE PRACTITIONER PRIVILEGE, OR OTHER
13 PRIVILEGE RECOGNIZED BY STATUTE OR COURT RULE.

14 (J) A BID OR PROPOSAL BY A PERSON TO ENTER INTO A CONTRACT
15 OR AGREEMENT, UNTIL THE TIME FOR THE PUBLIC OPENING OF BIDS OR
16 PROPOSALS, OR IF A PUBLIC OPENING IS NOT TO BE CONDUCTED, UNTIL
17 THE DEADLINE FOR SUBMISSION OF BIDS OR PROPOSALS HAS EXPIRED.

18 (K) APPRAISALS OF REAL PROPERTY TO BE ACQUIRED BY THE PUBLIC
19 BODY UNTIL EITHER OF THE FOLLOWING OCCURS:

20 (i) AN AGREEMENT IS ENTERED INTO.

21 (ii) THREE YEARS HAVE ELAPSED SINCE THE MAKING OF THE
22 APPRAISAL, UNLESS LITIGATION RELATIVE TO THE ACQUISITION HAS NOT
23 YET TERMINATED.

24 (l) TEST QUESTIONS AND ANSWERS, SCORING KEYS, AND OTHER
25 EXAMINATION INSTRUMENTS OR DATA USED TO ADMINISTER A LICENSE,
26 PUBLIC EMPLOYMENT, OR ACADEMIC EXAMINATION, UNLESS THE PUBLIC

1 INTEREST IN DISCLOSURE UNDER THIS ARTICLE OUTWEIGHS THE PUBLIC
2 INTEREST IN NONDISCLOSURE.

3 (M) MEDICAL, COUNSELING, OR PSYCHOLOGICAL FACTS OR EVALU-
4 ATIONS CONCERNING AN INDIVIDUAL IF THE INDIVIDUAL'S IDENTITY
5 WOULD BE REVEALED BY A DISCLOSURE OF THOSE FACTS OR EVALUATION.

6 (N) COMMUNICATIONS AND NOTES WITHIN A PUBLIC BODY OR BETWEEN
7 PUBLIC BODIES OF AN ADVISORY NATURE TO THE EXTENT THAT THEY COVER
8 OTHER THAN PURELY FACTUAL MATERIALS AND ARE PRELIMINARY TO A
9 FINAL AGENCY DETERMINATION OF POLICY OR ACTION. THIS EXEMPTION
10 DOES NOT APPLY UNLESS THE PUBLIC BODY SHOWS THAT IN THE PARTICU-
11 LAR INSTANCE THE PUBLIC INTEREST IN ENCOURAGING FRANK COMMUNICA-
12 TIONS BETWEEN OFFICIALS AND EMPLOYEES OF PUBLIC BODIES CLEARLY
13 OUTWEIGHS THE PUBLIC INTEREST IN DISCLOSURE. THIS EXEMPTION DOES
14 NOT CONSTITUTE AN EXEMPTION FOR PURPOSES OF SECTION 42(H). AS
15 USED IN THIS SUBDIVISION, "DETERMINATION OF POLICY OR ACTION"
16 INCLUDES A DETERMINATION RELATING TO COLLECTIVE BARGAINING,
17 UNLESS THE PUBLIC RECORD IS OTHERWISE REQUIRED TO BE MADE AVAIL-
18 ABLE UNDER 1947 PA 336, MCL 423.201 TO 423.217.

19 (O) RECORDS OF LAW ENFORCEMENT COMMUNICATION CODES, OR PLANS
20 FOR DEPLOYMENT OF LAW ENFORCEMENT PERSONNEL, THAT IF DISCLOSED
21 WOULD PREJUDICE A PUBLIC BODY'S ABILITY TO PROTECT THE PUBLIC
22 SAFETY UNLESS THE PUBLIC INTEREST IN DISCLOSURE UNDER THIS ACT
23 OUTWEIGHS THE PUBLIC INTEREST IN NONDISCLOSURE IN THE PARTICULAR
24 INSTANCE.

25 (P) INFORMATION THAT WOULD REVEAL THE EXACT LOCATION OF
26 ARCHAEOLOGICAL SITES. THE SECRETARY OF STATE MAY PROMULGATE
27 RULES PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969

1 PA 306, MCL 24.201 TO 24.328, TO PROVIDE FOR THE DISCLOSURE OF
2 THE LOCATION OF ARCHAEOLOGICAL SITES FOR PURPOSES RELATING TO THE
3 PRESERVATION OR SCIENTIFIC EXAMINATION OF SITES.

4 (Q) TESTING DATA DEVELOPED BY A PUBLIC BODY IN DETERMINING
5 WHETHER BIDDERS' PRODUCTS MEET THE SPECIFICATIONS FOR PURCHASE OF
6 THOSE PRODUCTS BY THE PUBLIC BODY, IF DISCLOSURE OF THE DATA
7 WOULD REVEAL THAT ONLY 1 BIDDER HAS MET THE SPECIFICATIONS. THIS
8 SUBDIVISION DOES NOT APPLY AFTER 1 YEAR HAS ELAPSED FROM THE TIME
9 THE PUBLIC BODY COMPLETES THE TESTING.

10 (R) ACADEMIC TRANSCRIPTS OF AN INSTITUTION OF HIGHER EDUCA-
11 TION ESTABLISHED UNDER SECTION 5, 6, OR 7 OF ARTICLE VIII, IF THE
12 TRANSCRIPT PERTAINS TO A STUDENT WHO IS DELINQUENT IN THE PAYMENT
13 OF FINANCIAL OBLIGATIONS TO THE INSTITUTION.

14 (S) RECORDS OF ANY CAMPAIGN COMMITTEE INCLUDING ANY COMMIT-
15 TEE THAT RECEIVES MONEY FROM A STATE CAMPAIGN FUND.

16 (T) UNLESS THE PUBLIC INTEREST IN DISCLOSURE OUTWEIGHS THE
17 PUBLIC INTEREST IN NONDISCLOSURE IN THE PARTICULAR INSTANCE,
18 PUBLIC RECORDS OF A LAW ENFORCEMENT AGENCY, THE RELEASE OF WHICH
19 WOULD DO ANY OF THE FOLLOWING:

20 (i) IDENTIFY OR PROVIDE A MEANS OF IDENTIFYING AN INFORMER.

21 (ii) IDENTIFY OR PROVIDE A MEANS OF IDENTIFYING A LAW
22 ENFORCEMENT UNDERCOVER OFFICER OR AGENT OR A PLAIN CLOTHES OFFI-
23 CER AS A LAW ENFORCEMENT OFFICER OR AGENT.

24 (iii) DISCLOSE THE PERSONAL ADDRESS OR TELEPHONE NUMBER OF
25 LAW ENFORCEMENT OFFICERS OR AGENTS OR ANY SPECIAL SKILLS THAT
26 THEY MAY HAVE.

1 (iv) DISCLOSE THE NAME, ADDRESS, OR TELEPHONE NUMBERS OF
2 FAMILY MEMBERS, RELATIVES, CHILDREN, OR PARENTS OF LAW
3 ENFORCEMENT OFFICERS OR AGENTS.

4 (v) DISCLOSE OPERATIONAL INSTRUCTIONS FOR LAW ENFORCEMENT
5 OFFICERS OR AGENTS.

6 (vi) REVEAL THE CONTENTS OF STAFF MANUALS PROVIDED FOR LAW
7 ENFORCEMENT OFFICERS OR AGENTS.

8 (vii) ENDANGER THE LIFE OR SAFETY OF LAW ENFORCEMENT OFFI-
9 CERS OR AGENTS OR THEIR FAMILIES, RELATIVES, CHILDREN, PARENTS,
10 OR THOSE WHO FURNISH INFORMATION TO LAW ENFORCEMENT DEPARTMENTS
11 OR AGENCIES.

12 (viii) IDENTIFY OR PROVIDE A MEANS OF IDENTIFYING A PERSON
13 AS A LAW ENFORCEMENT OFFICER, AGENT, OR INFORMER.

14 (ix) DISCLOSE PERSONNEL RECORDS OF LAW ENFORCEMENT
15 AGENCIES.

16 (x) IDENTIFY OR PROVIDE A MEANS OF IDENTIFYING RESIDENCES
17 THAT LAW ENFORCEMENT AGENCIES ARE REQUESTED TO CHECK IN THE
18 ABSENCE OF THEIR OWNERS OR TENANTS.

19 (U) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION,
20 RECORDS AND INFORMATION PERTAINING TO AN INVESTIGATION OR A COM-
21 PLIANCE CONFERENCE CONDUCTED BY THE DEPARTMENT OF CONSUMER AND
22 INDUSTRY SERVICES UNDER ARTICLE 15 OF THE PUBLIC HEALTH CODE,
23 1978 PA 368, MCL 333.16101 TO 333.18838, BEFORE A COMPLAINT IS
24 ISSUED. THIS SUBDIVISION DOES NOT APPLY TO RECORDS AND INFORMA-
25 TION PERTAINING TO 1 OR MORE OF THE FOLLOWING:

1 (i) THE FACT THAT AN ALLEGATION HAS BEEN RECEIVED AND AN
2 INVESTIGATION IS BEING CONDUCTED, AND THE DATE THE ALLEGATION WAS
3 RECEIVED.

4 (ii) THE FACT THAT AN ALLEGATION WAS RECEIVED BY THE DEPART-
5 MENT OF CONSUMER AND INDUSTRY SERVICES; THE FACT THAT THE DEPART-
6 MENT OF CONSUMER AND INDUSTRY SERVICES DID NOT ISSUE A COMPLAINT
7 FOR THE ALLEGATION; AND THE FACT THAT THE ALLEGATION WAS
8 DISMISSED.

9 (v) RECORDS OF A PUBLIC BODY'S SECURITY MEASURES, INCLUDING
10 SECURITY PLANS, SECURITY CODES AND COMBINATIONS, PASSWORDS,
11 PASSES, KEYS, AND SECURITY PROCEDURES, TO THE EXTENT THAT THE
12 RECORDS RELATE TO THE ONGOING SECURITY OF THE PUBLIC BODY.

13 (w) RECORDS OR INFORMATION RELATING TO A CIVIL ACTION IN
14 WHICH THE REQUESTING PARTY AND THE PUBLIC BODY ARE PARTIES.

15 (x) INFORMATION OR RECORDS THAT WOULD DISCLOSE THE SOCIAL
16 SECURITY NUMBER OF ANY INDIVIDUAL.

17 (y) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, AN
18 APPLICATION FOR THE POSITION OF PRESIDENT OF AN INSTITUTION OF
19 HIGHER EDUCATION ESTABLISHED UNDER SECTION 4, 5, OR 6 OF ARTICLE
20 VIII, MATERIALS SUBMITTED WITH SUCH AN APPLICATION, LETTERS OF
21 RECOMMENDATION OR REFERENCES CONCERNING AN APPLICANT, AND RECORDS
22 OR INFORMATION RELATING TO THE PROCESS OF SEARCHING FOR AND
23 SELECTING AN INDIVIDUAL FOR A POSITION DESCRIBED IN THIS SUBDIVI-
24 SION, IF THE RECORDS OR INFORMATION COULD BE USED TO IDENTIFY A
25 CANDIDATE FOR THE POSITION. HOWEVER, AFTER 1 OR MORE INDIVIDUALS
26 HAVE BEEN IDENTIFIED AS FINALISTS FOR A POSITION DESCRIBED IN
27 THIS SUBDIVISION, THIS SUBDIVISION DOES NOT APPLY TO A PUBLIC

1 RECORD DESCRIBED IN THIS SUBDIVISION, EXCEPT A LETTER OF
2 RECOMMENDATION OR REFERENCE, TO THE EXTENT THAT THE PUBLIC RECORD
3 RELATES TO AN INDIVIDUAL IDENTIFIED AS A FINALIST FOR THE
4 POSITION.

5 (2) THIS ARTICLE DOES NOT AUTHORIZE THE WITHHOLDING OF
6 INFORMATION OTHERWISE REQUIRED BY LAW TO BE MADE AVAILABLE TO THE
7 PUBLIC OR TO A PARTY IN A CONTESTED CASE UNDER THE ADMINISTRATIVE
8 PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328.

9 (3) EXCEPT AS OTHERWISE EXEMPT UNDER SUBSECTION (1), THIS
10 ARTICLE DOES NOT AUTHORIZE THE WITHHOLDING OF A PUBLIC RECORD IN
11 THE POSSESSION OF THE EXECUTIVE OFFICE OF THE GOVERNOR OR LIEU-
12 TENANT GOVERNOR, OR AN EMPLOYEE OF EITHER EXECUTIVE OFFICE, IF
13 THE PUBLIC RECORD IS TRANSFERRED TO THE EXECUTIVE OFFICE OF THE
14 GOVERNOR OR LIEUTENANT GOVERNOR, OR AN EMPLOYEE OF EITHER EXECU-
15 TIVE OFFICE, AFTER A REQUEST FOR THE PUBLIC RECORD HAS BEEN
16 RECEIVED BY A STATE OFFICER, EMPLOYEE, AGENCY, DEPARTMENT, DIVI-
17 SION, BUREAU, BOARD, COMMISSION, COUNCIL, AUTHORITY, OR OTHER
18 BODY IN THE EXECUTIVE BRANCH OF GOVERNMENT THAT IS SUBJECT TO
19 THIS ARTICLE.

20 SEC. 34. NOTWITHSTANDING SECTION 33, AN INSTITUTION OF
21 HIGHER EDUCATION ESTABLISHED UNDER SECTION 5, 6, OR 7 OF ARTICLE
22 VIII; A SCHOOL DISTRICT AS DEFINED IN SECTION 6 OF THE REVISED
23 SCHOOL CODE, 1976 PA 451, MCL 380.6; AN INTERMEDIATE SCHOOL DIS-
24 TRICT AS DEFINED IN SECTION 4 OF THE REVISED SCHOOL CODE, 1976 PA
25 451, MCL 380.4; OR A COMMUNITY COLLEGE ESTABLISHED UNDER THE COM-
26 MUNITY COLLEGE ACT OF 1966, 1966 PA 331, MCL 389.1 TO 389.195,
27 SHALL UPON REQUEST MAKE AVAILABLE TO THE PUBLIC THE SALARY

1 RECORDS OF AN EMPLOYEE OR OTHER OFFICIAL OF THE INSTITUTION OF
2 HIGHER EDUCATION, SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT,
3 OR COMMUNITY COLLEGE.

4 SEC. 35. (1) IF A PUBLIC RECORD CONTAINS MATERIAL WHICH IS
5 NOT EXEMPT UNDER SECTION 33, AS WELL AS MATERIAL WHICH IS EXEMPT
6 FROM DISCLOSURE UNDER SECTION 33, THE PUBLIC BODY SHALL SEPARATE
7 THE EXEMPT AND NONEXEMPT MATERIAL AND MAKE THE NONEXEMPT MATERIAL
8 AVAILABLE FOR EXAMINATION AND COPYING.

9 (2) WHEN DESIGNING A PUBLIC RECORD, A PUBLIC BODY SHALL, TO
10 THE EXTENT PRACTICABLE, FACILITATE A SEPARATION OF EXEMPT FROM
11 NONEXEMPT INFORMATION. IF THE SEPARATION IS READILY APPARENT TO
12 A PERSON REQUESTING TO INSPECT OR RECEIVE COPIES OF THE FORM, THE
13 PUBLIC BODY SHALL GENERALLY DESCRIBE THE MATERIAL EXEMPTED UNLESS
14 THAT DESCRIPTION WOULD REVEAL THE CONTENTS OF THE EXEMPT INFORMA-
15 TION AND THUS DEFEAT THE PURPOSE OF THE EXEMPTION.

16 SEC. 36. THIS ARTICLE DOES NOT PROHIBIT A PUBLIC BODY FROM
17 ADOPTING AN ORDINANCE, RESOLUTION, RULE, OR CHARTER PROVISION
18 WHICH WOULD REQUIRE A GREATER DEGREE OF OPENNESS RELATIVE TO
19 MEETINGS OF PUBLIC BODIES THAN THE STANDARDS PROVIDED FOR IN THIS
20 ARTICLE.

21 SEC. 37. (1) ALL MEETINGS OF A PUBLIC BODY SHALL BE OPEN TO
22 THE PUBLIC AND SHALL BE HELD IN A PLACE AVAILABLE TO THE GENERAL
23 PUBLIC. ALL PERSONS SHALL BE PERMITTED TO ATTEND ANY MEETING
24 EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE. THE RIGHT OF A
25 PERSON TO ATTEND A MEETING OF A PUBLIC BODY INCLUDES THE RIGHT TO
26 TAPE-RECORD, TO VIDEOTAPE, TO BROADCAST LIVE ON RADIO, AND TO
27 TELECAST LIVE ON TELEVISION THE PROCEEDINGS OF A PUBLIC BODY AT A

1 PUBLIC MEETING. THE EXERCISE OF THIS RIGHT SHALL NOT BE
2 DEPENDENT UPON THE PRIOR APPROVAL OF THE PUBLIC BODY. HOWEVER, A
3 PUBLIC BODY MAY ESTABLISH REASONABLE RULES AND REGULATIONS IN
4 ORDER TO MINIMIZE THE POSSIBILITY OF DISRUPTING THE MEETING.

5 (2) ALL DECISIONS OF A PUBLIC BODY SHALL BE MADE AT A MEET-
6 ING OPEN TO THE PUBLIC.

7 (3) ALL DELIBERATIONS OF A PUBLIC BODY CONSTITUTING A QUORUM
8 OF ITS MEMBERS SHALL TAKE PLACE AT A MEETING OPEN TO THE PUBLIC
9 EXCEPT AS PROVIDED IN THIS SECTION AND SECTIONS 41 AND 42.

10 (4) A PERSON SHALL NOT BE REQUIRED AS A CONDITION OF
11 ATTENDANCE AT A MEETING OF A PUBLIC BODY TO REGISTER OR OTHERWISE
12 PROVIDE HIS OR HER NAME OR OTHER INFORMATION OR OTHERWISE TO FUL-
13 FILL A CONDITION PRECEDENT TO ATTENDANCE.

14 (5) A PERSON SHALL BE PERMITTED TO ADDRESS A MEETING OF A
15 PUBLIC BODY UNDER RULES ESTABLISHED AND RECORDED BY THE PUBLIC
16 BODY. THE LEGISLATURE OR A HOUSE OF THE LEGISLATURE MAY PROVIDE
17 BY RULE THAT THE RIGHT TO ADDRESS MAY BE LIMITED TO PRESCRIBED
18 TIMES AT HEARINGS AND COMMITTEE MEETINGS ONLY.

19 (6) A PERSON SHALL NOT BE EXCLUDED FROM A MEETING OTHERWISE
20 OPEN TO THE PUBLIC EXCEPT FOR A BREACH OF THE PEACE ACTUALLY COM-
21 MITTED AT THE MEETING.

22 (7) THIS SECTION AND SECTIONS 38 THROUGH 48 DO NOT APPLY TO
23 THE FOLLOWING PUBLIC BODIES ONLY WHEN DELIBERATING THE MERITS OF
24 A CASE:

25 (A) THE WORKER'S COMPENSATION APPEAL BOARD CREATED UNDER THE
26 WORKER'S DISABILITY COMPENSATION ACT OF 1969, 1969 PA 317, MCL
27 418.101 TO 418.941.

1 (B) THE EMPLOYMENT SECURITY BOARD OF REVIEW CREATED UNDER
2 THE MICHIGAN EMPLOYMENT SECURITY ACT, 1936 (EX SESS) PA 1, MCL
3 421.1 TO 421.75.

4 (C) THE STATE TENURE COMMISSION CREATED UNDER 1937 (EX SESS)
5 PA 4, MCL 38.71 TO 38.191, WHEN ACTING AS A BOARD OF REVIEW FROM
6 THE DECISION OF A CONTROLLING BOARD.

7 (D) AN ARBITRATOR OR ARBITRATION PANEL APPOINTED BY THE
8 EMPLOYMENT RELATIONS COMMISSION UNDER THE AUTHORITY GIVEN THE
9 COMMISSION BY 1939 PA 176, MCL 423.1 TO 423.30.

10 (E) AN ARBITRATION PANEL SELECTED IN ACCORDANCE WITH THE
11 REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.101 TO
12 600.9948.

13 (F) THE MICHIGAN PUBLIC SERVICE COMMISSION CREATED UNDER
14 1939 PA 3, MCL 460.1 TO 460.8.

15 (8) THIS SECTION AND SECTIONS 38 THROUGH 48 DO NOT APPLY TO
16 AN ASSOCIATION OF INSURERS CREATED UNDER THE INSURANCE CODE OF
17 1956, 1956 PA 218, MCL 500.100 TO 500.8302, OR TO ANY OTHER ASSO-
18 CIATION OR FACILITY FORMED UNDER THE INSURANCE CODE OF 1956, 1956
19 PA 218, MCL 500.100 TO 500.8302, AS A NONPROFIT ORGANIZATION OF
20 INSURER MEMBERS.

21 (9) THIS SECTION AND SECTIONS 38 THROUGH 48 DO NOT APPLY TO
22 A COMMITTEE OF A PUBLIC BODY THAT ADOPTS A NONPOLICYMAKING RESO-
23 LUTION OF TRIBUTE OR MEMORIAL, WHICH RESOLUTION IS NOT ADOPTED AT
24 A MEETING.

25 (10) THIS SECTION AND SECTIONS 38 THROUGH 48 DO NOT APPLY TO
26 A MEETING THAT IS A SOCIAL OR CHANCE GATHERING OR CONFERENCE NOT
27 DESIGNED TO AVOID THIS ARTICLE.

1 (11) THIS SECTION AND SECTIONS 38 THROUGH 48 DO NOT APPLY TO
2 THE MICHIGAN VETERANS' TRUST FUND BOARD OF TRUSTEES OR A COUNTY
3 OR DISTRICT COMMITTEE CREATED UNDER 1946 (1ST EX SESS) PA 9, MCL
4 35.601 TO 35.610, WHEN THE BOARD OF TRUSTEES OR COUNTY OR DIS-
5 TRICT COMMITTEE IS DELIBERATING THE MERITS OF AN EMERGENT NEED.
6 A DECISION OF THE BOARD OF TRUSTEES OR COUNTY OR DISTRICT COMMIT-
7 TEE MADE UNDER THIS SUBSECTION SHALL BE RECONSIDERED BY THE BOARD
8 OR COMMITTEE AT ITS NEXT REGULAR OR SPECIAL MEETING CONSISTENT
9 WITH THE REQUIREMENTS OF THIS ARTICLE. "EMERGENT NEED" MEANS A
10 SITUATION WHICH THE BOARD OF TRUSTEES, BY RULES PROMULGATED UNDER
11 THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL
12 24.201 TO 24.328, DETERMINES REQUIRES IMMEDIATE ACTION.

13 SEC. 38. THE FOLLOWING PROVISIONS APPLY WITH RESPECT TO
14 PUBLIC NOTICE OF MEETINGS:

15 (A) A PUBLIC NOTICE SHALL ALWAYS CONTAIN THE NAME OF THE
16 PUBLIC BODY TO WHICH THE NOTICE APPLIES, ITS TELEPHONE NUMBER IF
17 ONE EXISTS, AND ITS ADDRESS.

18 (B) A PUBLIC NOTICE FOR A PUBLIC BODY SHALL ALWAYS BE POSTED
19 AT ITS PRINCIPAL OFFICE AND ANY OTHER LOCATIONS CONSIDERED APPRO-
20 PRIATE BY THE PUBLIC BODY. CABLE TELEVISION MAY ALSO BE UTILIZED
21 FOR PURPOSES OF POSTING PUBLIC NOTICE.

22 (C) IF A PUBLIC BODY IS A PART OF A STATE DEPARTMENT, PART
23 OF THE LEGISLATIVE OR JUDICIAL BRANCH OF STATE GOVERNMENT, PART
24 OF AN INSTITUTION OF HIGHER EDUCATION, OR PART OF A POLITICAL
25 SUBDIVISION OR SCHOOL DISTRICT, A PUBLIC NOTICE SHALL ALSO BE
26 POSTED IN THE RESPECTIVE PRINCIPAL OFFICE OF THE STATE
27 DEPARTMENT, THE INSTITUTION OF HIGHER EDUCATION, CLERK OF THE

1 HOUSE OF REPRESENTATIVES, SECRETARY OF THE STATE SENATE, CLERK OF
2 THE SUPREME COURT, OR POLITICAL SUBDIVISION OR SCHOOL DISTRICT.

3 (D) IF A PUBLIC BODY DOES NOT HAVE A PRINCIPAL OFFICE, THE
4 REQUIRED PUBLIC NOTICE FOR A LOCAL PUBLIC BODY SHALL BE POSTED IN
5 THE OFFICE OF THE COUNTY CLERK IN WHICH THE PUBLIC BODY SERVES
6 AND THE REQUIRED PUBLIC NOTICE FOR A STATE PUBLIC BODY SHALL BE
7 POSTED IN THE OFFICE OF THE SECRETARY OF STATE.

8 SEC. 39. (1) A MEETING OF A PUBLIC BODY SHALL NOT BE HELD
9 UNLESS PUBLIC NOTICE IS GIVEN AS PROVIDED IN THIS SECTION BY A
10 PERSON DESIGNATED BY THE PUBLIC BODY.

11 (2) FOR REGULAR MEETINGS OF A PUBLIC BODY, THERE SHALL BE
12 POSTED WITHIN 10 DAYS AFTER THE FIRST MEETING OF THE PUBLIC BODY
13 IN EACH CALENDAR OR FISCAL YEAR A PUBLIC NOTICE STATING THE
14 DATES, TIMES, AND PLACES OF ITS REGULAR MEETINGS.

15 (3) IF THERE IS A CHANGE IN THE SCHEDULE OF REGULAR MEETINGS
16 OF A PUBLIC BODY, THERE SHALL BE POSTED WITHIN 3 DAYS AFTER THE
17 MEETING AT WHICH THE CHANGE IS MADE, A PUBLIC NOTICE STATING THE
18 NEW DATES, TIMES, AND PLACES OF ITS REGULAR MEETINGS.

19 (4) EXCEPT AS PROVIDED IN THIS SUBSECTION OR IN
20 SUBSECTION (6), FOR A RESCHEDULED REGULAR OR A SPECIAL MEETING OF
21 A PUBLIC BODY, A PUBLIC NOTICE STATING THE DATE, TIME, AND PLACE
22 OF THE MEETING SHALL BE POSTED AT LEAST 18 HOURS BEFORE THE
23 MEETING. THE REQUIREMENT OF 18-HOUR NOTICE SHALL NOT APPLY TO
24 SPECIAL MEETINGS OF SUBCOMMITTEES OF A PUBLIC BODY OR CONFERENCE
25 COMMITTEES OF THE STATE LEGISLATURE. A CONFERENCE COMMITTEE
26 SHALL GIVE A 6-HOUR NOTICE. A SECOND CONFERENCE COMMITTEE SHALL
27 GIVE A 1-HOUR NOTICE. NOTICE OF A CONFERENCE COMMITTEE MEETING

1 SHALL INCLUDE WRITTEN NOTICE TO EACH MEMBER OF THE CONFERENCE
2 COMMITTEE AND THE MAJORITY AND MINORITY LEADER OF EACH HOUSE
3 INDICATING TIME AND PLACE OF THE MEETING.

4 (5) A MEETING OF A PUBLIC BODY WHICH IS RECESSED FOR MORE
5 THAN 36 HOURS SHALL BE RECONVENED ONLY AFTER PUBLIC NOTICE, WHICH
6 IS EQUIVALENT TO THAT REQUIRED UNDER SUBSECTION (4), HAS BEEN
7 POSTED. IF EITHER HOUSE OF THE STATE LEGISLATURE IS ADJOURNED OR
8 RECESSED FOR LESS THAN 18 HOURS, THE NOTICE PROVISIONS OF
9 SUBSECTION (4) ARE NOT APPLICABLE. NOTHING IN THIS SECTION SHALL
10 BAR A PUBLIC BODY FROM MEETING IN EMERGENCY SESSION IN THE EVENT
11 OF A SEVERE AND IMMINENT THREAT TO THE HEALTH, SAFETY, OR WELFARE
12 OF THE PUBLIC WHEN 2/3 OF THE MEMBERS SERVING ON THE BODY DECIDE
13 THAT DELAY WOULD BE DETRIMENTAL TO EFFORTS TO LESSEN OR RESPOND
14 TO THE THREAT.

15 (6) A MEETING OF A PUBLIC BODY MAY ONLY TAKE PLACE IN A RES-
16 IDENTIAL DWELLING IF A NONRESIDENTIAL BUILDING WITHIN THE BOUND-
17 ARY OF THE LOCAL GOVERNMENTAL UNIT OR SCHOOL SYSTEM IS NOT AVAIL-
18 ABLE WITHOUT COST TO THE PUBLIC BODY. FOR A MEETING OF A PUBLIC
19 BODY WHICH IS HELD IN A RESIDENTIAL DWELLING, NOTICE OF THE MEET-
20 ING SHALL BE PUBLISHED AS A DISPLAY ADVERTISEMENT IN A NEWSPAPER
21 OF GENERAL CIRCULATION IN THE CITY OR TOWNSHIP IN WHICH THE MEET-
22 ING IS TO BE HELD. THE NOTICE SHALL BE PUBLISHED NOT LESS THAN
23 2 DAYS BEFORE THE DAY ON WHICH THE MEETING IS HELD, AND SHALL
24 STATE THE DATE, TIME, AND PLACE OF THE MEETING. THE NOTICE,
25 WHICH SHALL BE AT THE BOTTOM OF THE DISPLAY ADVERTISEMENT AND
26 WHICH SHALL BE SET OFF IN A CONSPICUOUS MANNER, SHALL INCLUDE THE
27 FOLLOWING LANGUAGE: "THIS MEETING IS OPEN TO ALL MEMBERS OF THE

1 PUBLIC UNDER MICHIGAN'S CONSTITUTIONAL OPEN MEETINGS
2 REQUIREMENTS".

3 SEC. 40. (1) UPON THE WRITTEN REQUEST OF AN INDIVIDUAL,
4 ORGANIZATION, FIRM, OR CORPORATION, AND UPON THE REQUESTING
5 PARTY'S PAYMENT OF A YEARLY FEE OF NOT MORE THAN THE REASONABLE
6 ESTIMATED COST FOR PRINTING AND POSTAGE OF SUCH NOTICES, A PUBLIC
7 BODY SHALL SEND TO THE REQUESTING PARTY BY FIRST-CLASS MAIL A
8 COPY OF ANY NOTICE REQUIRED TO BE POSTED PURSUANT TO SECTION
9 39(2) TO (5).

10 (2) UPON WRITTEN REQUEST, A PUBLIC BODY, AT THE SAME TIME A
11 PUBLIC NOTICE OF A MEETING IS POSTED PURSUANT TO SECTION 39,
12 SHALL PROVIDE A COPY OF THE PUBLIC NOTICE OF THAT MEETING TO ANY
13 NEWSPAPER PUBLISHED IN THE STATE AND TO ANY RADIO AND TELEVISION
14 STATION LOCATED IN THE STATE, FREE OF CHARGE.

15 SEC. 41. (1) A 2/3 ROLL CALL VOTE OF MEMBERS ELECTED OR
16 APPOINTED AND SERVING IS REQUIRED TO CALL A CLOSED SESSION,
17 EXCEPT FOR THE CLOSED SESSIONS PERMITTED UNDER SECTION 42(A),
18 (B), (C), (G), (I), AND (J). THE ROLL CALL VOTE AND THE PURPOSE
19 OR PURPOSES FOR CALLING THE CLOSED SESSION SHALL BE ENTERED INTO
20 THE MINUTES OF THE MEETING AT WHICH THE VOTE IS TAKEN.

21 (2) A SEPARATE SET OF MINUTES SHALL BE TAKEN BY THE CLERK OR
22 THE DESIGNATED SECRETARY OF THE PUBLIC BODY AT THE CLOSED
23 SESSION. THESE MINUTES SHALL BE RETAINED BY THE CLERK OF THE
24 PUBLIC BODY, ARE NOT AVAILABLE TO THE PUBLIC, AND SHALL ONLY BE
25 DISCLOSED IF REQUIRED BY A CIVIL ACTION FILED UNDER SECTION 44,
26 45, OR 47. THESE MINUTES MAY BE DESTROYED 1 YEAR AND 1 DAY AFTER

1 APPROVAL OF THE MINUTES OF THE REGULAR MEETING AT WHICH THE
2 CLOSED SESSION WAS APPROVED.

3 SEC. 42. A PUBLIC BODY MAY MEET IN A CLOSED SESSION ONLY
4 FOR THE FOLLOWING PURPOSES:

5 (A) TO CONSIDER THE DISMISSAL, SUSPENSION, OR DISCIPLINING
6 OF, OR TO HEAR COMPLAINTS OR CHARGES BROUGHT AGAINST, OR TO CON-
7 sider A PERIODIC PERSONNEL EVALUATION OF, A PUBLIC OFFICER,
8 EMPLOYEE, STAFF MEMBER, OR INDIVIDUAL AGENT, IF THE NAMED PERSON
9 REQUESTS A CLOSED HEARING. A PERSON REQUESTING A CLOSED HEARING
10 MAY RESCIND THE REQUEST AT ANY TIME, IN WHICH CASE THE MATTER AT
11 ISSUE SHALL BE CONSIDERED AFTER THE RESCISSION ONLY IN OPEN
12 SESSIONS.

13 (B) TO CONSIDER THE DISMISSAL, SUSPENSION, OR DISCIPLINING
14 OF A STUDENT IF THE PUBLIC BODY IS PART OF THE SCHOOL DISTRICT,
15 INTERMEDIATE SCHOOL DISTRICT, OR INSTITUTION OF HIGHER EDUCATION
16 THAT THE STUDENT IS ATTENDING, AND IF THE STUDENT OR THE
17 STUDENT'S PARENT OR GUARDIAN REQUESTS A CLOSED HEARING.

18 (C) FOR STRATEGY AND NEGOTIATION SESSIONS CONNECTED WITH THE
19 NEGOTIATION OF A COLLECTIVE BARGAINING AGREEMENT IF EITHER NEGO-
20 TIATING PARTY REQUESTS A CLOSED HEARING.

21 (D) TO CONSIDER THE PURCHASE OR LEASE OF REAL PROPERTY UP TO
22 THE TIME AN OPTION TO PURCHASE OR LEASE THAT REAL PROPERTY IS
23 OBTAINED.

24 (E) TO CONSULT WITH ITS ATTORNEY REGARDING TRIAL OR SETTLE-
25 MENT STRATEGY IN CONNECTION WITH SPECIFIC PENDING LITIGATION, BUT
26 ONLY IF AN OPEN MEETING WOULD HAVE A DETRIMENTAL FINANCIAL EFFECT
27 ON THE LITIGATING OR SETTLEMENT POSITION OF THE PUBLIC BODY.

1 (F) TO REVIEW AND CONSIDER THE CONTENTS OF AN APPLICATION
2 FOR EMPLOYMENT OR APPOINTMENT TO A PUBLIC OFFICE IF THE CANDIDATE
3 REQUESTS THAT THE APPLICATION REMAIN CONFIDENTIAL. HOWEVER,
4 EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, ALL INTERVIEWS
5 BY A PUBLIC BODY FOR EMPLOYMENT OR APPOINTMENT TO A PUBLIC OFFICE
6 SHALL BE HELD IN AN OPEN MEETING PURSUANT TO SECTIONS 36 THROUGH
7 48. THIS SUBDIVISION DOES NOT APPLY TO A PUBLIC OFFICE DESCRIBED
8 IN SUBDIVISION (J).

9 (G) PARTISAN CAUCUSES OF MEMBERS OF THE STATE LEGISLATURE.

10 (H) TO CONSIDER MATERIAL EXEMPT FROM DISCUSSION OR DISCLO-
11 SURE BY STATE OR FEDERAL STATUTE.

12 (I) FOR A COMPLIANCE CONFERENCE CONDUCTED BY THE DEPARTMENT
13 OF CONSUMER AND INDUSTRY SERVICES UNDER SECTION 16231 OF THE
14 PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.16231, BEFORE A COM-
15 PLAIN IS ISSUED.

16 (J) IN THE PROCESS OF SEARCHING FOR AND SELECTING A PRESI-
17 DENT OF AN INSTITUTION OF HIGHER EDUCATION ESTABLISHED UNDER SEC-
18 TION 4, 5, OR 6 OF ARTICLE VIII, TO REVIEW THE SPECIFIC CONTENTS
19 OF AN APPLICATION, TO CONDUCT AN INTERVIEW WITH A CANDIDATE, OR
20 TO DISCUSS THE SPECIFIC QUALIFICATIONS OF A CANDIDATE IF THE PAR-
21 TICULAR PROCESS OF SEARCHING FOR AND SELECTING A PRESIDENT OF AN
22 INSTITUTION OF HIGHER EDUCATION MEETS ALL OF THE FOLLOWING
23 REQUIREMENTS:

24 (i) THE SEARCH COMMITTEE IN THE PROCESS, APPOINTED BY THE
25 GOVERNING BOARD, CONSISTS OF AT LEAST 1 STUDENT OF THE INSTITU-
26 TION, 1 FACULTY MEMBER OF THE INSTITUTION, 1 ADMINISTRATOR OF THE
27 INSTITUTION, 1 ALUMNUS OF THE INSTITUTION, AND 1 REPRESENTATIVE

1 OF THE GENERAL PUBLIC. THE SEARCH COMMITTEE ALSO MAY INCLUDE 1
2 OR MORE MEMBERS OF THE GOVERNING BOARD OF THE INSTITUTION, BUT
3 THE NUMBER SHALL NOT CONSTITUTE A QUORUM OF THE GOVERNING BOARD.
4 HOWEVER, THE SEARCH COMMITTEE SHALL NOT BE CONSTITUTED IN SUCH A
5 WAY THAT ANY 1 OF THE GROUPS DESCRIBED IN THIS SUBPARAGRAPH CON-
6 STITUTES A MAJORITY OF THE SEARCH COMMITTEE.

7 (ii) AFTER THE SEARCH COMMITTEE RECOMMENDS THE 5 FINAL CAN-
8 DIDATES, THE GOVERNING BOARD DOES NOT TAKE A VOTE ON A FINAL
9 SELECTION FOR THE PRESIDENT UNTIL AT LEAST 30 DAYS AFTER THE 5
10 FINAL CANDIDATES HAVE BEEN PUBLICLY IDENTIFIED BY THE SEARCH
11 COMMITTEE.

12 (iii) THE DELIBERATIONS AND VOTE OF THE GOVERNING BOARD OF
13 THE INSTITUTION ON SELECTING THE PRESIDENT TAKE PLACE IN AN OPEN
14 SESSION OF THE GOVERNING BOARD.

15 SEC. 43. (1) EACH PUBLIC BODY SHALL KEEP MINUTES OF EACH
16 MEETING SHOWING THE DATE, TIME, PLACE, MEMBERS PRESENT, MEMBERS
17 ABSENT, ANY DECISIONS MADE AT A MEETING OPEN TO THE PUBLIC, AND
18 THE PURPOSE OR PURPOSES FOR WHICH A CLOSED SESSION IS HELD. THE
19 MINUTES SHALL INCLUDE ALL ROLL CALL VOTES TAKEN AT THE MEETING.
20 CORRECTIONS IN THE MINUTES SHALL BE MADE NOT LATER THAN THE NEXT
21 MEETING AFTER THE MEETING TO WHICH THE MINUTES REFER. CORRECTED
22 MINUTES SHALL BE AVAILABLE NO LATER THAN THE NEXT SUBSEQUENT
23 MEETING AFTER CORRECTION. THE CORRECTED MINUTES SHALL SHOW BOTH
24 THE ORIGINAL ENTRY AND THE CORRECTION.

25 (2) MINUTES SHALL BE PUBLIC RECORDS OPEN TO PUBLIC INSPEC-
26 TION AND SHALL BE AVAILABLE AT THE ADDRESS DESIGNATED ON POSTED
27 PUBLIC NOTICES PURSUANT TO SECTION 38. COPIES OF THE MINUTES

1 SHALL BE AVAILABLE TO THE PUBLIC AT THE REASONABLE ESTIMATED COST
2 FOR PRINTING AND COPYING.

3 (3) PROPOSED MINUTES SHALL BE AVAILABLE FOR PUBLIC INSPEC-
4 TION NOT MORE THAN 8 BUSINESS DAYS AFTER THE MEETING TO WHICH THE
5 MINUTES REFER. APPROVED MINUTES SHALL BE AVAILABLE FOR PUBLIC
6 INSPECTION NOT LATER THAN 5 BUSINESS DAYS AFTER THE MEETING AT
7 WHICH THE MINUTES ARE APPROVED BY THE PUBLIC BODY.

8 SEC. 44. (1) DECISIONS OF A PUBLIC BODY SHALL BE PRESUMED
9 TO HAVE BEEN ADOPTED IN COMPLIANCE WITH THE REQUIREMENTS OF SEC-
10 TIONS 36 THROUGH 48. THE ATTORNEY GENERAL, THE PROSECUTING
11 ATTORNEY OF THE COUNTY IN WHICH THE PUBLIC BODY SERVES, OR ANY
12 PERSON MAY COMMENCE A CIVIL ACTION IN THE CIRCUIT COURT TO CHAL-
13 LENGE THE VALIDITY OF A DECISION OF A PUBLIC BODY MADE IN VIOLA-
14 TION OF SECTIONS 36 THROUGH 48.

15 (2) A DECISION MADE BY A PUBLIC BODY MAY BE INVALIDATED IF
16 THE PUBLIC BODY HAS NOT COMPLIED WITH THE REQUIREMENTS OF SECTION
17 37(1), (2), AND (3) IN MAKING THE DECISION OR IF FAILURE TO GIVE
18 NOTICE IN ACCORDANCE WITH SECTION 39 HAS INTERFERED WITH SUBSTAN-
19 TIAL COMPLIANCE WITH SECTION 37(1), (2), AND (3) AND THE COURT
20 FINDS THAT THE NONCOMPLIANCE OR FAILURE HAS IMPAIRED THE RIGHTS
21 OF THE PUBLIC UNDER THIS ARTICLE.

22 (3) THE CIRCUIT COURT SHALL NOT HAVE JURISDICTION TO INVALI-
23 DATE A DECISION OF A PUBLIC BODY FOR A VIOLATION OF ANY PROVISION
24 OF SECTIONS 37 THROUGH 48 UNLESS AN ACTION IS COMMENCED PURSUANT
25 TO THIS SECTION WITHIN THE FOLLOWING SPECIFIED PERIOD OF TIME:

1 (A) WITHIN 60 DAYS AFTER THE APPROVED MINUTES ARE MADE
2 AVAILABLE TO THE PUBLIC BY THE PUBLIC BODY EXCEPT AS OTHERWISE
3 PROVIDED IN SUBDIVISION (B).

4 (B) IF THE DECISION INVOLVES THE APPROVAL OF CONTRACTS, THE
5 RECEIPT OR ACCEPTANCE OF BIDS, THE MAKING OF ASSESSMENTS, THE
6 PROCEDURES PERTAINING TO THE ISSUANCE OF BONDS OR OTHER EVIDENCES
7 OF INDEBTEDNESS, OR THE SUBMISSION OF A BORROWING PROPOSAL TO THE
8 ELECTORS, WITHIN 30 DAYS AFTER THE APPROVED MINUTES ARE MADE
9 AVAILABLE TO THE PUBLIC PURSUANT TO THAT DECISION.

10 (4) VENUE FOR AN ACTION UNDER THIS SECTION SHALL BE ANY
11 COUNTY IN WHICH A LOCAL PUBLIC BODY SERVES OR, IF THE DECISION OF
12 A STATE PUBLIC BODY IS AT ISSUE, IN INGHAM COUNTY.

13 (5) IN ANY CASE WHERE AN ACTION HAS BEEN INITIATED TO INVAL-
14 IDATE A DECISION OF A PUBLIC BODY ON THE GROUND THAT IT WAS NOT
15 TAKEN IN CONFORMITY WITH THE REQUIREMENTS OF ANY PROVISION OF
16 SECTIONS 36 THROUGH 48, THE PUBLIC BODY MAY, WITHOUT BEING DEEMED
17 TO MAKE ANY ADMISSION CONTRARY TO ITS INTEREST, REENACT THE DIS-
18 PUTED DECISION IN CONFORMITY WITH SECTIONS 36 THROUGH 48. A
19 DECISION REENACTED IN THIS MANNER SHALL BE EFFECTIVE FROM THE
20 DATE OF REENACTMENT AND SHALL NOT BE DECLARED INVALID BY REASON
21 OF A DEFICIENCY IN THE PROCEDURE USED FOR ITS INITIAL ENACTMENT.

22 SEC. 45. (1) IF A PUBLIC BODY IS NOT COMPLYING WITH ANY
23 PROVISION OF SECTIONS 36 THROUGH 48, THE ATTORNEY GENERAL, PROSE-
24 CUTING ATTORNEY OF THE COUNTY IN WHICH THE PUBLIC BODY SERVES, OR
25 A PERSON MAY COMMENCE A CIVIL ACTION TO COMPEL COMPLIANCE OR TO
26 ENJOIN FURTHER NONCOMPLIANCE WITH SECTIONS 36 THROUGH 48.

1 (2) AN ACTION FOR INJUNCTIVE RELIEF AGAINST A LOCAL PUBLIC
2 BODY SHALL BE COMMENCED IN THE CIRCUIT COURT, AND VENUE IS PROPER
3 IN ANY COUNTY IN WHICH THE PUBLIC BODY SERVES. AN ACTION FOR AN
4 INJUNCTION AGAINST A STATE PUBLIC BODY SHALL BE COMMENCED IN THE
5 CIRCUIT COURT AND VENUE IS PROPER IN ANY COUNTY IN WHICH THE
6 PUBLIC BODY HAS ITS PRINCIPAL OFFICE, OR IN INGHAM COUNTY. IF A
7 PERSON COMMENCES AN ACTION FOR INJUNCTIVE RELIEF, THAT PERSON
8 SHALL NOT BE REQUIRED TO POST SECURITY AS A CONDITION FOR OBTAIN-
9 ING A PRELIMINARY INJUNCTION OR A TEMPORARY RESTRAINING ORDER.

10 (3) AN ACTION FOR MANDAMUS AGAINST A PUBLIC BODY UNDER ANY
11 PROVISION OF SECTIONS 36 THROUGH 48 SHALL BE COMMENCED IN THE
12 COURT OF APPEALS.

13 (4) IF A PUBLIC BODY IS NOT COMPLYING WITH ANY PROVISION OF
14 SECTIONS 36 THROUGH 48, AND A PERSON COMMENCES A CIVIL ACTION
15 AGAINST THE PUBLIC BODY FOR INJUNCTIVE RELIEF TO COMPEL COMPLI-
16 ANCE OR TO ENJOIN FURTHER NONCOMPLIANCE WITH ANY PROVISION OF
17 SECTIONS 36 THROUGH 48 AND SUCCEEDS IN OBTAINING RELIEF IN THE
18 ACTION, THE PERSON SHALL RECOVER COURT COSTS AND ACTUAL ATTORNEY
19 FEES FOR THE ACTION.

20 SEC. 46. (1) A PUBLIC OFFICIAL WHO INTENTIONALLY VIOLATES
21 ANY PROVISION OF SECTIONS 36 THROUGH 48 IS GUILTY OF A MISDE-
22 MEANOR PUNISHABLE BY A FINE OF NOT MORE THAN \$1,000.00.

23 (2) A PUBLIC OFFICIAL WHO IS CONVICTED OF INTENTIONALLY VIO-
24 LATING ANY PROVISION OF SECTIONS 36 THROUGH 48 FOR A SECOND TIME
25 WITHIN THE SAME TERM IS GUILTY OF A MISDEMEANOR AND SHALL BE
26 FINED NOT MORE THAN \$2,000.00, OR IMPRISONED FOR NOT MORE THAN 1
27 YEAR, OR BOTH.

1 SEC. 47. (1) A PUBLIC OFFICIAL WHO INTENTIONALLY VIOLATES
2 ANY PROVISION OF SECTIONS 36 THROUGH 48 SHALL BE PERSONALLY
3 LIABLE IN A CIVIL ACTION FOR ACTUAL AND EXEMPLARY DAMAGES OF NOT
4 MORE THAN \$500.00 TOTAL, PLUS COURT COSTS AND ACTUAL ATTORNEY
5 FEES TO A PERSON OR GROUP OF PERSONS BRINGING THE ACTION.

6 (2) NOT MORE THAN 1 ACTION UNDER THIS SECTION SHALL BE
7 BROUGHT AGAINST A PUBLIC OFFICIAL FOR A SINGLE MEETING. AN
8 ACTION UNDER THIS SECTION SHALL BE COMMENCED WITHIN 180 DAYS
9 AFTER THE DATE OF THE VIOLATION WHICH GIVES RISE TO THE CAUSE OF
10 ACTION.

11 (3) AN ACTION FOR DAMAGES UNDER THIS SECTION MAY BE JOINED
12 WITH AN ACTION FOR INJUNCTIVE OR EXEMPLARY RELIEF UNDER SECTION
13 45.

14 SEC. 48. IF THE GOVERNING BOARD OF AN INSTITUTION OF HIGHER
15 EDUCATION ESTABLISHED UNDER SECTION 4, 5, OR 6 OF ARTICLE VIII
16 VIOLATES ANY PROVISION OF SECTIONS 37 THROUGH 47 WITH RESPECT TO
17 THE PROCESS OF SELECTING A PRESIDENT OF THE INSTITUTION AT ANY
18 TIME AFTER THE RECOMMENDATION OF FINAL CANDIDATES TO THE GOVERN-
19 ING BOARD, AS DESCRIBED IN SECTION 42(J), THE INSTITUTION IS
20 RESPONSIBLE FOR THE PAYMENT OF A CIVIL FINE OF NOT MORE THAN
21 \$500,000.00. THIS CIVIL FINE IS IN ADDITION TO ANY OTHER REMEDY
22 OR PENALTY UNDER ANY PROVISION OF SECTIONS 36 THROUGH THIS
23 SECTION. TO THE EXTENT POSSIBLE, ANY PAYMENT OF FINES IMPOSED
24 UNDER THIS SECTION SHALL BE PAID FROM FUNDS ALLOCATED BY THE
25 INSTITUTION OF HIGHER EDUCATION TO PAY FOR THE TRAVEL AND
26 EXPENSES OF THE MEMBERS OF THE GOVERNING BOARD.

1 Resolved further, That the foregoing amendment shall be
2 submitted to the people of the state at the next general election
3 in the manner provided by law.